

General Information and Overview

Introduction

The enclosed materials will assist claimants in filing an application for payment from the Victims of Corporate Fraud Compensation Fund (hereafter, "VCFCF"). Established by legislation in 2002, the VCFCF provides restitution to victims of corporate fraud. The statutes governing applications for payment from the VCFCF are set forth in California Corporations Code sections 1502, 1502.5, and 2117. The regulations governing the VCFCF (hereafter "Regulations") and all further references to regulations are to Title 2, Division 7 of the California Code of Regulations, Chapter 12, sections 22500 et seq.

Prerequisites to Qualify for Payment

There are several important prerequisites to qualify for payment under the VCFCF:

- A final judgment, arbitration award, or criminal restitution order based on fraud, misrepresentation, or deceit, made with intent to defraud;
- The judgment, arbitration award, or criminal restitution order is from a California court or federal court sitting to conduct its affairs within the State of California;
- The judgment, arbitration award, or criminal restitution order is dated January 1, 2003, or thereafter;
- The application is delivered to the Secretary of State no more than 18 months after the judgment became final ("final" means the appeal period has expired);
- The qualifying judgment debtor is a corporation. Note: all further references to "judgment debtor" are to the judgment debtor corporation unless otherwise noted.
- Diligent pursuit of collection efforts on assets of all judgment debtors from the underlying action, including judgment debtors who are not corporations;
- Diligent pursuit of any other person who may have been liable in the transaction;

- The underlying judgment and debt must not have been discharged in bankruptcy, or in the case of a bankruptcy proceeding that is still open at the filing of the application, the judgment and debt must have been declared to be nondischargeable;
- A statement by the claimant, signed under penalty of perjury, that the complaint upon which the underlying judgment is based was prosecuted conscientiously and in good faith. In the case of a criminal restitution order, the claimant must show he or she has not failed to pursue in a civil action all persons liable to the claimant in the transaction, except a criminal defendant subject to the criminal restitution order; and
- All judgment debtors must be properly served a copy of the application and attached Notice to Judgment Debtor.

Judgment Debtor Response

An application served on the Secretary of State must also be served on the judgment debtor(s) along with the enclosed Notice to Judgment Debtor. A judgment debtor has 30 days from the date of service to file a response with the Secretary of State. A copy of the response must also be served on the claimant. If a judgment debtor does not file a timely response, the judgment debtor will have waived the right to present objections to payment and will not be entitled to any further notice of any action taken or proposed to be taken on the application.

Time Frames

Once an application is received, the Secretary of State has 21 calendar days to notify the claimant of any deficiencies in the application. The claimant has 30 days to respond to the deficiency notice. If there is no response, the Secretary of State will send a final notice. If there is still no response, the application will be denied.

If there are no deficiencies in the application or the deficiencies have been corrected, the

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application will be deemed complete. The Secretary of State must render a final decision on a completed application by July 31st in the State's fiscal year following the fiscal year in which the application was received. If no decision is made within the timeline, the application is automatically denied unless there is a written agreement to extend the decision timeline. The claimant and judgment debtor who has filed a timely response will be notified of the final decision on the application.

Serving the Application and Notice

On the Secretary of State. The original application and supporting documentation must be delivered in person or by certified mail to the Office of the Secretary of State. If delivered in person, please notify the counter employee the application packet is for the "Victims of Corporate Fraud Compensation Fund." The claimant may also bring an extra copy of the application and have the employee stamp both the original and copy as "received." If the application is delivered by certified mail, it must be sent to the following address:

Office of the Secretary of State
Business Programs Division
Victims of Corporate Fraud
Compensation Fund
1500 11th Street, 3rd Floor
Sacramento, CA 95814

On the Judgment Debtor(s). A copy of the application, Notice to Judgment Debtor, and all supporting documentation must be served on each judgment debtor corporation. Service may be accomplished in one of three (3) ways:

1. **By Certified Mail.** If the judgment debtor has a current Statement of Information on file with the Secretary of State designating an agent for service of process, a claimant may serve a judgment debtor by certified mail addressed to the agent for service of process. You may obtain a corporation's agent for service of process information online by visiting the Secretary of State

website at www.ss.ca.gov under the Business Portal-California Business Search. You must complete and submit a proof of service to the Secretary of State. You may use the "Proof of Service – Certified Mail" form attached to this application. Service is deemed complete on the fifth day after mailing.

2. **By Personal Service.** Service may be made in person on each judgment debtor. Personal service may be effected by any person who is at least 18 years of age and not a party to the application proceeding. You must complete and submit a proof of service to the Secretary of State. You may use the "Proof of Service – Personal" form attached to this application.
3. **By Publication.** If any judgment debtor cannot be served by certified mail or personal service despite the exercise of reasonable diligence, the claimant can serve the judgment debtor by publication of the Notice to Judgment Debtor for two successive weeks in a newspaper of general circulation published in the county of the judgment debtor's last known principal business office in California. You must complete and submit a proof of service to the Secretary of State. You may use the "Proof of Service – Publication" form attached to this application.

Subsequent Service of Correspondence and Notices

All subsequent correspondence and notices submitted must be served on all parties except a judgment debtor that has not filed a timely response. After initial service of the application and notice, the parties must be served with subsequent correspondence and notices by first class mail. The Secretary of State must be served at the address noted above. The claimant must be served at the address as specified in the application, or if represented by an attorney, at the address of the attorney as specified in the application. A judgment debtor must be served

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at the address as specified in the response, or if represented by an attorney, at the address of the attorney as specified in the response. A party must immediately notify the other parties by first class mail if they wish to be served at another address.

Decision, Appeals and Writs

The Secretary of State will notify the claimant and any judgment debtor who has filed a timely response of the decision on the application.

- Decision to Make Payment – If the decision is to award the claim, a judgment debtor has 30 days following receipt of the notice of decision to petition the superior court for a writ of mandamus. If the underlying judgment is a California state court judgment, the petition shall be filed in the court in which the underlying judgment was entered. If the underlying judgment is a federal court judgment, the petition shall be filed in the superior court of any county within California that would have been a proper venue if the underlying lawsuit had been filed in a California state court, or in the alternative, in the Superior Court of the County of Sacramento.
- Decision to Deny the Application – If the decision is to deny payment, the claimant may pursue the action in court. To do so, the claimant must file a verified application with the court no later than six months after mailing of the notice of denial of the application. If the underlying judgment is a California state court judgment, the application shall be filed in the court in which the underlying judgment was entered. If the underlying judgment is a federal court judgment, the application shall be filed in the superior court of any county within California that would have been a proper venue if the underlying lawsuit had been filed in a California state court, or in the alternative, in the Superior Court of the County of Sacramento.

Additional Information

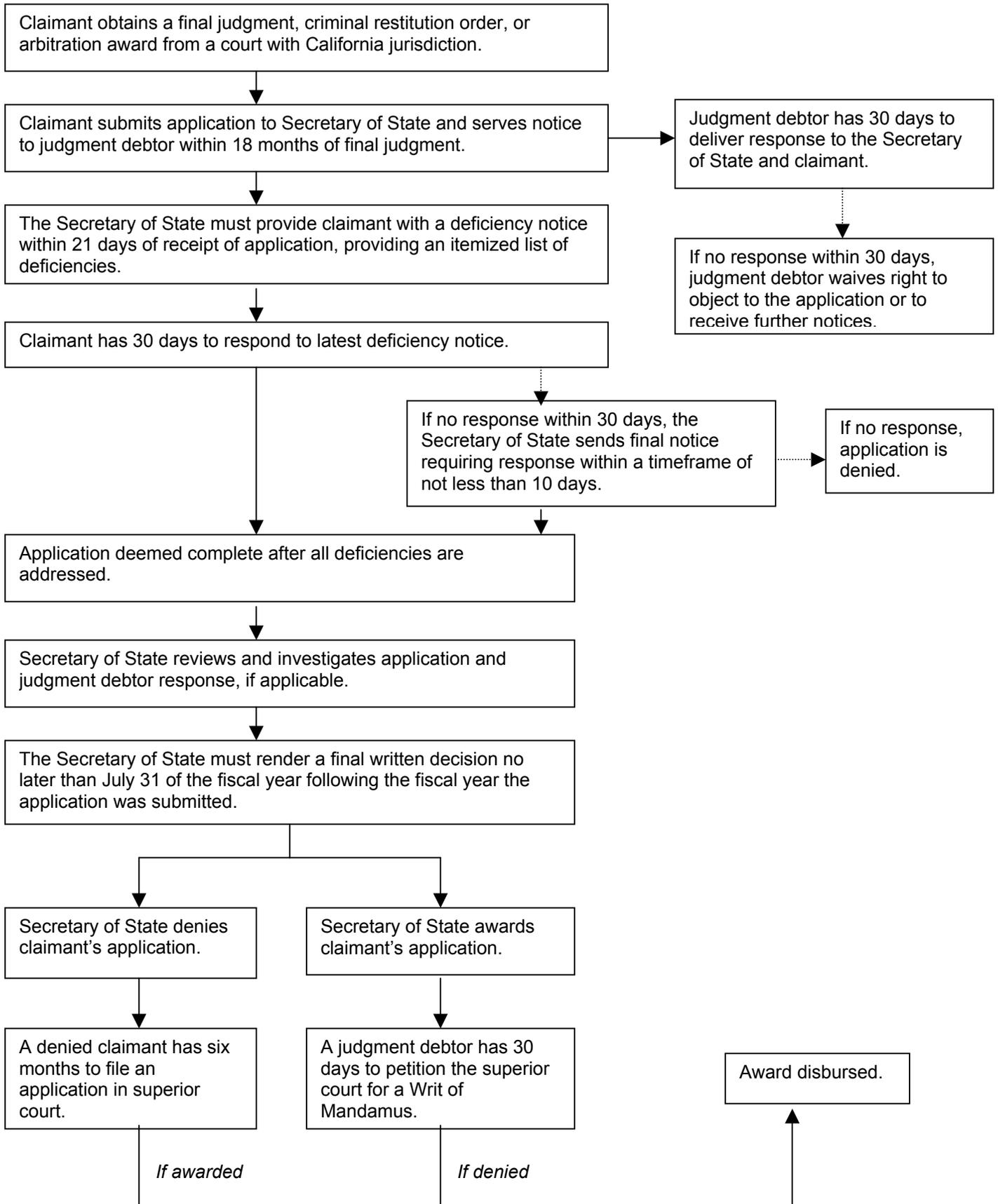
- All applications must be filed on the attached application form.
- The liability of the VCFCF is limited to \$20,000 per transaction, no matter how many claimants.
- The Secretary of State may be required to prorate the amount of an award if the aggregate valid claims of all aggrieved persons are likely to exceed the funds available for distribution.
- A claimant should make several copies of the completed application and the supporting documentation, since a copy must be served on the judgment debtor(s), and the claimant will want a copy for their records.

Attachments

This application packet includes the following in addition to this Overview:

- Application Procedures Flowchart
- Application Instructions
- Application for Payment
- Notice to Judgment Debtor
- Proof of Service - Personal
- Proof of Service - Certified Mail
- Proof of Service - Publication

Victims of Corporate Fraud Compensation Fund Application Procedures Flowchart



Application Instructions

Introduction

- Before attempting to fill out the Victims of Corporate Fraud Compensation Fund (VCFCF) application, you should review the entire application and instructions.
- To complete the application, type or print the information using black or blue ink. All handwriting, documents, and copies of documents must be clear and legible. You may attach extra pages if more space is needed, but be sure to identify the section and question number on any attached pages.
- Be sure to inform the Secretary of State in writing of any change in address or telephone number.

Part I. General Information

1&2. Provide contact information for the claimant and the claimant's attorney, if applicable. Any telephone number provided must be the number where that person is available during normal business hours. Fax numbers are optional, but may assist in expediting communication.

3. Please provide the name of the judgment debtor corporation and any other judgment debtors from the underlying judgment. The address of the judgment debtor corporation is that of the agent for service of process. You may obtain a corporation's agent for service of process information online by visiting the Secretary of State website at www.ss.ca.gov under the Business Portal - California Business Search.

4. The date the judgment, arbitration award, or criminal restitution order was issued must be dated January 1, 2003, or thereafter. Pursuant to Regulations section 22500(g), "final judgment" means the period for an appeal has expired, enforcement is not barred by any court order or statutory provision, and the judgment has not been nullified or rendered void by any court order or statutory provision. Also, it must be a

judgment for which the claimant has not otherwise been reimbursed. Please include the court name or location, and the court file number or case number. The court must be a California court or U.S. district court or U.S. bankruptcy court sitting to conduct its affairs within the boundaries of the State of California, but does not include state or federal courts located in another state.

Part II. Explanation of Claim Computation

Information provided in Part II is used to evaluate whether or not the amount claimed is allowable from the VCFCF.

5. The total amount of the judgment is the total amount awarded including any costs, fees, interest, compensatory or punitive damages, or other amounts. When itemizing the amount awarded, it is best to use the same itemization that was made by the court or arbitrator. Make sure that each element is listed separately. When explaining how interest was computed, identify both the rate itself, accrual method, any legal basis for the rate, and why that rate was used.

6a. Specify the dollar amount you are claiming against the VCFCF. Only a claimant's "actual and direct loss that remains unreimbursed from any source," is payable from the VCFCF. Therefore, the actual and direct loss may differ from the amounts awarded in the judgment. Pursuant to Regulations section 22501(a), actual and direct loss does not include punitive damages, loss of anticipated profits, attorney fees, court costs, or interest.

6b. Itemize and explain each out of pocket loss in a chronological narrative.

6c. If the amount claimed against the VCFCF is different from the actual out of pocket loss, identify the basis for the difference and explain why the amount of the claim is not equal to your actual out of pocket loss.

7. Any loss claimed on a tax return(s) must be identified by type of loss claimed (e.g., type of

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deduction), and the amount of the tax benefit derived. Explain in detail how claiming the loss resulted in less taxable income, and/or less tax owed.

Part III. Information Regarding Underlying Complaint and Collection Efforts

1. "Corporate fraud" as defined in VCFCF regulations is intentional fraud, misrepresentation, or deceit made with intent to defraud. Examples include, but are not limited to, fraud in the issuance or sale of securities, false reports or entries on corporate records with intent to deceive, and fraudulent abuse of corporate powers or privileges. Note: Part V requires you to explain in an attachment, signed under penalty of perjury, the facts of the transaction and the allegations in the underlying case, and how this complies with the definition of corporate fraud.
2. At least one judgment debtor must be a corporation in order for a claimant to qualify for payment under the VCFCF.
3. If any other judgment debtor is not a corporation, but was part of collection efforts, identify them here. State the name of the judgment debtor and their corporate title (e.g., president, CFO). The relationship to the corporation should include a description of their powers, authority, and job duties as it related to the transaction at issue.
4. Identify each party or defendant that was dismissed from the lawsuit. Provide the reasons used by the court to justify the dismissal, or if none were given, the reasons set forth in any motion that was the basis for dismissal.
5. The amount of any assignment or transfer should be identified in both percentage and dollar amounts, if known. You may identify the name and address of the recipient of the assignment or transfer (not required).
6. Provide information regarding bankruptcy proceedings, if any, for each judgment debtor. Attach additional pages as necessary. If exact

dates are unknown, use approximate dates. The claimant has a duty to protect the underlying judgment in bankruptcy proceedings. The claimant must file a claim in the bankruptcy proceeding and the judgment and debt must be declared nondischargeable. A claimant should attach copies of any bankruptcy court records to the application as verification for this section.

Part IV. Declarations

The claimant must verify to the Secretary of State that each of the statements in this part is true and correct by initialing each section. Only the claimant may initial each section. The declarations in this section are required pursuant to Regulations section 22502(a).

1. For purposes of this section, "immediate family member" includes, but is not limited to, parents, grandparents, children, grandchildren, siblings, aunts, uncles, and any such relationship by marriage (e.g., in-laws or step-relationships).
2. Applicable sections are found in Title 2, Division 7 of the California Code of Regulations, Chapter 12, sections 22500 through 22519.
3. Regulations section 22501(a) provides requirements for a "final judgment," including limitations on damages, and a maximum claim award of \$20,000 per transaction.
4. Pursuit of collection efforts against all judgment debtors includes property searches, legal action, garnishments, attachments, and at a minimum requires the recordation of an abstract of judgment in the county where each judgment debtor may possibly have assets.
5. The claimant has a duty to protect the underlying judgment in bankruptcy proceedings. The claimant must file a claim in the bankruptcy proceeding and the judgment and debt must be declared nondischargeable. If the bankruptcy proceeding is ongoing and the court has made no final decision as to the underlying judgment being declared nondischargeable, the application cannot be processed.
6. If a claimant becomes aware that a judgment debtor has filed for bankruptcy protection, the

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claimant agrees to notify the Secretary of State in writing and file a claim to protect the judgment.

7. Time for filing of applications is a jurisdictional requirement. No exceptions can be made on acceptance of an application if the time to file has elapsed.

8. The Secretary of State must be notified in writing of any assignment or transfer of any part of the claimant's interest in the judgment, arbitration award, or criminal restitution order.

9. There is no need to initial this section if the claim is based on a criminal restitution order. Pursuant to Regulations section 22502(a)(6)(A), "conscientiously and in good faith" means that no party potentially liable to the claimant in the underlying transaction was intentionally and without good cause omitted from the complaint or arbitration proceeding, that no party named in the complaint who otherwise reasonably appeared capable of responding in damages was dismissed from the complaint or arbitration proceeding or dismissed from the complaint or arbitration proceeding intentionally and without good cause, and that the claimant employed no other procedural means contrary to the diligent prosecution of the complaint or arbitration award for the purpose of seeking to qualify for the VCFCF.

10. There is no need to initial this section if the claim is based on a civil judgment or arbitration award.

Part V. Attachments Checklist

Attachments should be clearly labeled in order, with numbers corresponding to the numbers in Part V of the application.

Part VI. Verification

An application must be verified by the claimant in the manner specified in California Code of Civil Procedure section 446. If the claimant is a corporation, the verification may be made by any officer of the corporation. If executed outside of California, the information in the

application and accompanying documents shall be verified before a person qualified to administer oaths within the jurisdiction where executed, or certified under penalty of perjury in accordance with California Code of Civil Procedure section 2015.5(b).

Note: Any and all information in this application is subject to verification. Corporate records, court records, and other types of records may be obtained to verify the information submitted.

Application for Payment

PART I. GENERAL INFORMATION

Read the entire application and instructions before completing the application. Attach more pages if needed.

1. Claimant's Name

Address	City	State	Zip code
Daytime Telephone Number			

2. Attorney's Name (complete if represented by an attorney in this application)

Business Address	City	State	Zip code
Daytime Telephone Number		Fax Number (optional)	

3. List the name and address of judgment debtor(s). If the address of any of the judgment debtor(s) is unknown, provide the names and addresses of persons who may know the whereabouts of the judgment debtor(s).

Name	Address

4. Identification of the Judgment.

Date civil judgment, arbitration award, or criminal restitution order:	
<i>Was issued</i>	<i>Was finalized</i>
Type of judgment (check one): <input type="checkbox"/> Civil judgment <input type="checkbox"/> Arbitration award <input type="checkbox"/> Criminal restitution order	
Court name and court file number or case number:	

PART II. EXPLANATION OF CLAIM COMPUTATION

5. Indicate the total amount of the judgment, arbitration award, or criminal restitution order, then itemize the amount. Include a description of the basis of each element of damages awarded.

Total Judgment: \$ _____

- a. Court-awarded costs: \$ _____
- b. Interest awarded, if any: \$ _____
- c. Punitive damages, if any: \$ _____
- d. Attorney's fees, if any: \$ _____

Explain from what date, at what rate, and on what amounts any interest was computed.

6. Only a claimant's "actual and direct loss" is payable from the VCFCF, which does not include attorney fees, punitive damages, interest, or loss of anticipated profits. The following questions must be answered to determine amounts eligible for VCFCF disbursement.

- a. Amount of claim being sought from the VCFCF that remains unreimbursed: \$ _____

b. Itemize and explain the actual out of pocket loss upon which the claim against the VCFCF is based.

c. Explain any discrepancy between the amount of the claim and the amount of the actual out of pocket loss from Item 6b.

7. Was any loss related to the transaction claimed on the claimant's tax return(s)? Yes No

If yes, provide a description of the amount of the tax benefit derived.

PART III. INFORMATION REGARDING UNDERLYING COMPLAINT AND COLLECTION EFFORTS

1. Is the underlying judgment based upon corporate fraud, misrepresentation, or deceit made with the intent to defraud? Yes No

2. Do you have a judgment, arbitration award, or criminal restitution order against a corporation? Yes No

3. If any judgment debtor is not a corporation, provide their name, corporate title, and explain their relationship to the corporation. If the only judgment debtor was an officer or director, explain why the corporation was not sued or was not taken to judgment.

4. Were any codefendants or parties dismissed from the underlying lawsuit or from the arbitration of the claims that are the basis for the underlying lawsuit? Yes No

If yes, provide a statement of the reason for dismissal for each codefendant or party to the action.

5. Has the claimant assigned or transferred all or any part of his/her interest in the judgment, arbitration award, or criminal restitution order? Yes No

If yes, explain.

6. Does the claimant have any knowledge or information that any judgment debtor has filed or intends to file for bankruptcy protection? Yes No

a. If no, has the claimant attempted to verify this with the bankruptcy court or with anyone else? Explain below. Yes No

b. If yes to question 6, respond to the following:

(1) Name of the judgment debtor. _____

(2) Date the judgment debtor filed bankruptcy. _____

(3) Was the claimant named as a creditor in the bankruptcy? Yes No

(4) Did the claimant file a claim in bankruptcy court? Yes No

If no, why not?

(5) Was any attempt made to have the debt to the claimant determined to be nondischargeable? Yes No

If no, why not? If yes, what was the result?

(6) Was the debt underlying the judgment, and/or the judgment, discharged in the bankruptcy proceeding? Yes No

If yes, when? _____

PART IV. DECLARATIONS

A claimant must initial each section. By doing so, the claimant is verifying that each statement is true and correct in accordance with Regulations §22502.

Declarations		Claimant's Initials
1.	The claimant is not a spouse or immediate member of the family of the judgment debtor nor a personal representative of the spouse or immediate member of the family of the judgment debtor. For the purposes of this section, judgment debtor also includes the officers and directors of the judgment debtor.	
2.	The claimant has complied with all the requirements of Chapter 12 of the California Code of Regulations §22500 et seq.	
3.	The judgment underlying the claim meets the requirements of Regulations §22501(a).	
4.	The claimant has diligently pursued collection efforts against all judgment debtors and all other persons liable in the transaction that is the basis for the underlying judgment.	
5.	The underlying judgment and debt have not been discharged in bankruptcy, or, in the case of a bankruptcy proceeding that is open at the time or after the time of filing of the application, the judgment and debt have been declared nondischargeable. Notice: The claimant has a duty to protect the underlying judgment in bankruptcy.	
6.	While this application is pending, the claimant expressly agrees to notify the Secretary of State in writing of any information he or she becomes aware of that any judgment debtor has filed for bankruptcy protection.	
7.	The application was mailed or delivered to Secretary of State within 18 months after the underlying judgment became final. The judgment is final when the appeal period has expired.	
8.	While this application is pending, the claimant expressly agrees to notify the Secretary of State in writing of any assignment or transfer of all or any part of his or her interest in the judgment, arbitration award, or criminal restitution order.	
9.	<u>Civil action:</u> The complaint or arbitration award upon which the underlying judgment is based was prosecuted conscientiously and in good faith.	
10.	<u>Criminal restitution order:</u> The claimant has not intentionally and without good cause failed to pursue any person potentially liable to the claimant in the underlying transaction other than a defendant who is the subject of a criminal restitution order. The claimant has not intentionally and without good cause failed to pursue in a civil action for damages all persons potentially liable to the claimant in the underlying transaction who otherwise reasonably appeared capable of responding in damages other than a defendant who is the subject of a criminal restitution order. The claimant employed no other procedural means contrary to the diligent prosecution of the complaint in order to seek to qualify for the VCFCF.	

PART V. ATTACHMENTS CHECKLIST

The following attachments must be included with this application. If any item is not included, the claimant must provide a written explanation, signed under penalty of perjury, that a diligent effort was made to locate and produce items, but that the claimant has been unable to locate them or has found they do not exist. [Regulations §22502]

1. Proof that the judgment debtor was served with the Notice to Judgment Debtor and a copy of the application (form provided).
2. Copy of the final judgment that includes the basis for decision/findings including findings of fact, conclusions of law, jury verdicts, jury special verdicts, statements of decision, memorandum decision, or any other indication by the court or jury of its decision and the reasons for the decision.
3. If the matter was submitted to arbitration, a copy of any arbitration decision and any documentation supporting the arbitration award.
4. If the original decision was appealed, a copy of any appellate decision and remittitur.
5. Copies of the original complaint, answer, cross-complaints, answers to cross-complaints, and all amendments, or other subsequent versions of any of those documents.
6. Copies of any pre-trial and post-trial briefs, settlement conference statements, or briefs submitted in arbitration by any party.
7. Copies of any post-trial orders or rulings.
8. Listing of discovery from the underlying action: a listing of all depositions, interrogatories, requests for admission, and other discovery taken in the underlying action by any party, describing the party or parties taking the deposition(s), the party propounding the interrogatories, the party propounding the requests for admission, or the party propounding the other discovery requests, the deponent(s), the party responding to the discovery request, and a list of all persons present at each deposition.
9. Copies of any demurrers or motions for summary judgment, supporting documents, rulings, and orders.
10. A detailed narrative statement of facts, explaining the allegations of the complaint upon which the civil judgment, arbitration award, or criminal restitution order is based. Specifically identify how the complaint would fit under the definition of “corporate fraud”. Explain the nature of the transaction(s) in which the claimant was involved, and include approximate dates, if known.

11. A list of names of any witnesses who testified at the underlying trial, or arbitration of the claims that are the basis of the underlying lawsuit, and the present or last known addresses of the witnesses to the extent known by the claimant.
12. A description of searches and inquiries conducted by or on behalf of the claimant with respect to the judgment debtor's assets available to be sold or applied to satisfy the judgment, an itemized valuation of the assets discovered, and the results of actions by the claimant to have the assets applied to satisfaction of the judgment.
13. Abstracts of judgment bearing evidence of having been recorded in the county or counties in which the judgment debtor may possibly have assets.
14. Copies of any bankruptcy filings, court records, or judgments affecting the underlying judgment, arbitration award, or criminal restitution order.

Privacy Notice: Section 1798.17 of the Civil Code requires this notice be provided when collecting personal and confidential information from individuals. Each individual has the right to review personal information maintained by the Secretary of State, unless access is exempted by law. The Secretary of State will inform any individual regarding the location of his or her records and the categories of any persons who use the information in those records upon request. To obtain this information contact VCFCF Recordkeeper, 1500 11th Street, 3rd Floor, Sacramento, CA 95814, phone number (916) 651-9070.

Chapter 12 of the California Code of Regulations Sections 22500 et seq. requires each claimant to submit the information required in support of an application for payment from the Victims of Corporate Fraud Compensation Fund. The information required in the application is mandatory, unless noted otherwise. If all or any part of the required information is not provided, processing of the application for payment will be delayed until the requested information is provided.

The information requested in this application is used to verify the identity of the applicant and the details of the transaction upon which the application is based.

This information may be transferred to other state or federal regulatory agencies, law enforcement agencies (e.g., City Police, Sheriff's Departments, District Attorneys, Attorney General, F.B.I.) and other California State Agencies (e.g., Department of Corporations, Department of Consumer Affairs, California Bar Association).

PART VI. VERIFICATION

Verification by Claimant in California

STATE OF CALIFORNIA, COUNTY OF _____

I am the Claimant in this application; I have read the application and all attachments thereto and know the contents thereof; and I certify that the same is true of my own knowledge, except as to those matters which are therein stated upon my information or belief, as to which matters I believe them to be true; and I further certify that all documents attached to the application are true and correct copies of the originals, and if such documents purport to be copies of documents filed in court, they are true and correct copies of the originals filed with the court.

Executed on _____ at _____, California.
Date City

I declare, under penalty of perjury, that the foregoing is true and correct.

Signature

Verification by Claimant Out-of-State

STATE OF _____ COUNTY OF _____

I am the Claimant in this application; I have read the application and all attachments thereto and know the contents thereof; and I certify that the same is true of my own knowledge, except as to those matters which are therein stated upon my information or belief, as to which matters I believe them to be true; and I further certify that all documents attached to the application are true and correct copies of the originals, and if such documents purport to be copies of documents filed in court, they are true and correct copies of the originals filed with the court.

Executed on _____ at _____.
Date City/State

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signature

Verification by Attorney

I am the attorney for the Claimant in this application. The Claimant is absent from the County where I have my offices, and I make this verification for and on behalf of the Claimant for that reason. I have read the application and all attachments thereto and know the contents thereof; and I certify that the same is true of my own knowledge, except as to those matters which are therein stated upon my information or belief, as to which matters I believe them to be true; and I further certify that all documents attached to the application are true and correct copies of the originals, and if such documents purport to be copies of documents filed in court, they are true and correct copies of the originals filed with the court.

Executed on _____ at _____, California.
Date City

I declare, under penalty of perjury, that the foregoing is true and correct.

Signature

Notice to Judgment Debtor

A notice with instructions must be served on each judgment debtor.

To: _____
Print name of Judgment Debtor

NOTICE: Based upon a judgment entered against you in favor of

Print name of claimant

an application for payment from the Victims of Corporate Fraud Compensation Fund (the VCFCF) is being made to the California Secretary of State.

If payment is made from the VCFCF, your corporation will be automatically assessed the amount of the payment plus interest at the prevailing legal rate by the Secretary of State. If your corporation does not pay the assessed amount, your corporation will be suspended and cannot be reinstated until the VCFCF has been reimbursed for the amount plus interest at the prevailing legal rate.

If you wish to contest payment of the application by the Secretary of State, you must submit a written response to the application, which must be addressed to the Secretary of State at:

Office of the Secretary of State
Business Programs Division
Victims of Corporate Fraud Compensation Fund
1500 11th Street, 3rd Floor
Sacramento, CA 95814

The written response must be mailed or delivered to the address above within 30 days after mailing, delivery, or publication of this notice, and a copy of that response must be mailed or delivered to the claimant. If you fail to do so, you will have waived your right to present your objections to payment of the application, and to receive notices of any action taken or proposed to be taken by the Secretary of State with respect to the application.

The legal authority governing applications for payment from the VCFCF is set forth in California Corporations Code Sections 1502, 1502.5, and 2117, and in Title 2, Division 7 of the California Code of Regulations, Chapter 12, sections 22500 et seq.

Notice to Judgment Debtor

Instructions to Judgment Debtor

The judgment debtor's written response must be verified and contain a verified proof of service showing that a copy of the response was sent to the claimant, or if the claimant is represented by an attorney, to the claimant's attorney, at the address specified in the application of the claimant or the claimant's attorney.

If the judgment debtor wishes to file a response and will not be represented by an attorney, the response must contain: the address at which the judgment debtor wishes to receive correspondence and notices related to the application, and a telephone number where the judgment debtor (or authorized representative) can be reached during regular business hours. If the judgment debtor is going to be represented by an attorney in objecting to the application, the response must contain the name, business address, and telephone number of the judgment debtor's attorney.

All parties must be served with subsequent correspondence and notices by first class mail as follows:

The Secretary of State must be served at:

Office of the Secretary of State
Business Programs Division
Victims of Corporate Fraud Compensation Fund
1500 11th Street, 3rd Floor
Sacramento, CA 95814

The claimant must be served at the claimant's address as specified in the application, or if the claimant is represented by an attorney, at the address of the attorney as specified in the application.

The judgment debtor must be served at the judgment debtor's address as specified in the judgment debtor's response, or if represented by an attorney, at the address of the attorney as specified in the judgment debtor's response.

Any party that later wishes to be served at an address other than as specified above must notify all other parties by first class mail of the new address.

As the judgment debtor, you are entitled to submit written argument. The judgment debtor will receive notice of subsequent correspondence and notices only if a timely written response is filed with the Secretary of State within 30 days after service of the application and Notice to Judgment Debtor by the claimant. Such notices and correspondence that the judgment debtor may receive include copies of any further documentation submitted by the claimant, any notification that the application has been deemed complete, copies of any argument submitted by the claimant, and notification of the final decision rendered by the Secretary of State whether or not to pay the claim.

Proof of Service – Personal

I served the following:

- Notice to Judgment Debtor
- Victims of Corporate Fraud Compensation Fund- Application for Payment
- All attachments to the Victims of Corporate Fraud Compensation Fund application

by personally delivering them as follows:

1. PERSON SERVED:
2. DATE AND TIME OF DELIVERY:
3. PLACE OF DELIVERY (ADDRESS):

At the time of service I was at least 18 years of age and not a party to the Application for Payment from the Victims of Corporate Fraud Compensation Fund.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on

_____ at _____
Date *City/State*

_____ _____
Print Name *Signature*

Proof of Service - Publication

If any judgment debtor does not have a current statement on file with the Secretary of State designating an agent for service of process pursuant to California Corporations Code Sections 1502, 2117, 6210, or 8210, and personal service cannot be effected through the exercise of reasonable diligence, the claimant shall serve the judgment debtor by one publication of the notice for two successive weeks in a newspaper of general circulation published in the county of the judgment debtor's last known principal business office in the State of California.

No form is provided for this means of service. Most newspapers provide their own form for the publisher to complete. Furthermore, this form of service is not authorized unless service is not possible by personal service or by certified mail. A declaration under penalty of perjury by the claimant or his/her attorney is necessary to establish due diligence in attempting to serve the judgment debtor by the other means.

Therefore, to make proof of service by publication, the following must be provided:

1. Declaration under penalty of perjury by the publisher as to the dates of publication, bearing a copy of the Notice as published.
2. Declaration under penalty of perjury by the claimant or their attorney detailing the efforts made to locate and serve the judgment debtor by certified mail or personal service. These efforts must be sufficient to establish "reasonable diligence" as required by Title 2, Division 7 of the California Code of Regulations, Chapter 12 Section 22503(b). The courts have not yet established guidelines for what constitutes "reasonable diligence" within the meaning of Section 22503(b), but the Judicial Council Comment to Section 415.50 of the Code of Civil Procedure (West's 1973), which governs the service of a summons by publication, includes the following description:

"The term 'reasonable diligence' ... denotes a thorough, systematic investigation and inquiry conducted in good faith by the party or his agent or attorney [citations omitted]. A number of honest attempts to learn defendant's whereabouts or his address by inquiry of relatives, friends, and acquaintances, or of his employer, and by investigation of appropriate city and telephone directories, the voters' register, and the real and personal property index in the assessor's office, near the defendant's last known location, are generally sufficient."